



**MICHIGAN STATE HOUSING  
DEVELOPMENT AUTHORITY**  
*Your Affordable Housing Partner*

Low Income Housing Tax Credit Program

Qualified Allocation Plan  
2008 - 2009  
[www.michigan.gov/mshda](http://www.michigan.gov/mshda)

## 2008-2009 QUALIFIED ALLOCATION PLAN

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**2008-2009 QUALIFIED ALLOCATION PLAN**  
**STATE of MICHIGAN**  
**LOW INCOME HOUSING TAX CREDIT PROGRAM**

**I. Introduction**

The Low Income Housing Tax Credit (LIHTC) program offers a financial incentive to construct, rehabilitate, and operate rental housing for low-income tenants. Under the administration of both the Internal Revenue Service (IRS) and a designated state agency, the LIHTC program has become the primary mechanism for developing affordable housing in the United States and in Michigan.

LIHTCs are allocated by a state agency and issued by the IRS over a ten-year period to offset a total of either 70% or 30% of a building's eligible basis depending on the type of project. Although commonly known as the 9% and 4% credits, respectively, the U.S. Department of the Treasury publishes the actual annual credit percentage each month. In 2000, Congress authorized each state agency to allocate LIHTCs totaling the greater of \$2 million or \$1.75 per capita (indexed for inflation) annually, as well as unallocated credits from the previous year, credits that have been returned by a developer, and additional credits allocated from the national pool of unused credits. In 2007, Michigan received slightly over \$19,000,000 million of LIHTC for allocation.

The 2008-2009 Michigan Qualified Allocation Plan (QAP) has been modified from previous versions. This modification is part of a concerted effort to develop public policy that responds to a changed economic and social environment in the State of Michigan. These public policy objectives are consistent with the Michigan State Housing Development Authority Act of 1966 and Section 42 of the IRC of 1986. Policy objectives include supporting affordable housing, housing for special needs and homeless populations, and the development of vibrant communities across Michigan. Operational objectives include allocating subsidies in a manner that will maximize public benefit for Michigan's citizens. This is the first substantial update to the QAP in over 10 years.

**A. Federal Qualified Allocation Plan Requirements:**

Under federal law, LIHTC is required to be allocated according to a Qualified Allocation Plan (QAP). The QAP is required to set forth selection criteria to be used to determine housing priorities appropriate to local conditions in Michigan and must give preference in allocating LIHTC dollar amounts among selected projects that assures:

1. Projects serve the lowest income tenants;
2. Serve qualified tenants for the longest periods;
3. Are located in Qualified Census Tracts (QCT) and contribute to a concerted Community Revitalization Plan; and
4. Provides a procedure that the Michigan State Housing Development Authority (MSHDA) will follow in monitoring for noncompliance with IRS requirements including notifying the IRS of such noncompliance.

LIHTC allocated to a building (development/project) is not to exceed the amount necessary to assure project feasibility through the credit period.

In making its determination, MSHDA is to consider the following:

1. The sources and uses of funds and the total financing planned for the project;
2. Any proceeds or receipts expected to be generated by reason of tax benefits;
3. The percentage of LIHTC dollar amount used for project costs other than the cost of intermediaries; and
4. The reasonableness of the development and operational costs of the project.

In making its determination MSHDA shall not apply these requirements so as to impede the development of projects in hard-to-develop areas. Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

**B. Michigan's Qualified Allocation Plan Requirements:**

Michigan law requires that the QAP set forth criteria to be used to determine housing priorities of the State, and give the highest priority to those projects in which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries, unless granting such priority would impede the development of projects in hard-to-develop areas. In allocating LIHTC dollar amounts among selected projects, the QAP must give preference to projects serving the lowest income tenants and projects obligated to serve qualified tenants for the longest periods, and provide a procedure that MSHDA will follow in notifying the IRS of noncompliance with the provisions of section 42 of the IRS Code of which MSHDA becomes aware. The QAP must set forth the process for selecting eligible projects and may be amended from time to time in accordance with its terms and the requirements of section 42 of the IRS Code.

**C. Michigan's Consolidated Plan:**

MSHDA administers a Department of Housing and Urban Development (HUD) required Consolidated Plan that provides an overarching framework for the administration of federally funded housing and economic development programs. The Consolidated Plan is a 5 year document that requires, among other things, that the State of Michigan expand the availability and supply of safe, decent, affordable, and accessible rental housing for low and extremely low-income individuals and families; improve and preserve the existing affordable housing stock and neighborhoods; make homeless assistance more effective and responsive; expand economic opportunity through economic and infrastructure development; and develop linkages between housing and service sectors to provide greater housing opportunities for households with special needs.

**D. Michigan's 5-Year Affordable Housing Community Action Plan:**

The Michigan affordable housing community has also developed a 5-Year Affordable Housing Community Action Plan. The goal of the Action Plan is to provide a common vision and voice for affordable housing advocates, funders,

practitioners and recipients. That portion of the Plan dealing with rental housing focuses its efforts on evaluating the complete state inventory of affordable housing for which owners are increasingly seeking exit strategies; prioritizing those projects most at risk, and creating efficiencies in financing models to preserve the maximum number of these projects, and design programs or initiatives which incorporate features to provide the maximum public benefit to the residents of these projects. The Action Plan also calls for increasing resources to support downtown and community development in Michigan, enhancing diversity, sustainability and/or affordability of communities and neighborhoods, increasing immediate access to housing for the homeless, and increasing the availability of supportive housing.

#### **E. Michigan's Public Housing Agency and Administrative Plans:**

MSHDA is responsible for administering the largest percentage of HUD's Existing Housing Voucher Program (Program) in Michigan, including Project Based Vouchers (PBV). As part of that responsibility, MSHDA is required to administer the Program according to a Public Housing Agency (PHA) Plan and Administrative Plan. The PHA Plan and Administrative Plan require that PBV be awarded based on a competitive selection process. Award of LIHTC under the QAP satisfies the PHA Plan and the Administrative Plan requirements for competitive selection. MSHDA is required to award LIHTC by first using the QAP selection process then MSHDA reviews a project to ensure that the project is consistent with MSHDA's PHA Plan and Administrative Plan selection criteria before awarding PBV to the LIHTC project.

#### **F. Michigan's Land Use Leadership Council Ten Growth Tenets:**

In 2003, the bi-partisan Michigan Land Use Leadership Council ("the Council") issued a report entitled *Michigan's Land, Michigan's Future*. The Council was convened to identify trends, causes and consequences of unmanaged growth and development. It was charged with making recommendations to minimize the negative impacts of Michigan's land use trends, promote urban revitalization, foster land use partnerships, identify growth opportunities, protect Michigan's natural resources and better manage costs of public investment in infrastructure to support growth. The Council recommended ten growth tenets for making the most effective use of Michigan's land.

These tenets are:

1. Create a range of housing opportunities and choices;
2. Create walk-able neighborhoods;
3. Encourage community and stakeholder collaboration;
4. Foster distinctive, attractive communities with a strong sense of place;
5. Make development decisions predictable, fair, and cost-effective;
6. Mix land uses;
7. Preserve open space, farmland, natural beauty and critical environmental areas;
8. Provide a variety of transportation choices;
9. Strengthen and direct development towards existing communities; and
10. Take advantage of compact development design.

The 2008-09 QAP is designed to support the recommendations of the Michigan

Land Use Leadership Council.

#### **G. Michigan's Economy and Vibrant Communities:**

Michigan's economy is widely perceived as lagging due to consecutive years of declining employment in the state while the rest of the country is experiencing economic expansion. Michigan has been growing slower than the nation for more than thirty years. This is in large part because the state is not attracting businesses and jobs in the growing knowledge-based industries as quickly as the rest of the United States.

In response, many public resources are being focused on attracting mid- and high-wage, knowledge-based industries to Michigan. One important strategy is the creation of desirable places that attract educated, highly skilled workers. The relationship between talent and a strong economy is not a new idea. Michigan thrived for a very long time in large part because the state offered a pool of workers skilled in the industrial trades. As the U.S. workforce contracts due to demographic and social trends, such as the ageing of the baby boom generation, the ability to attract talented workers becomes even more important.

Michigan's policy objectives and programs support the creation of vibrant communities to attract and retain talented workers and entrepreneurs. Michigan recognizes that downtowns, close-in neighborhoods and large metropolitan areas are increasingly the places that talented workers choose to locate. The Michigan State Housing Development Authority Act of 1966 assigns MSHDA the responsibility to invest in these places. It instructs MSHDA to provide safe and sanitary dwelling accommodations for low and moderate income persons in areas that have become blighted, vacant, have lost taxable values, and where there is a large demand for services but little ability to pay for them. MSHDA is charged with promoting social, recreational, commercial and communal facilities in those communities where they are needed to support housing and quality of life. The Act recognizes that the existence of blight, the inability to redevelop cleared areas, and the lack of economic integration is detrimental to the general welfare of Michigan citizens and the economic welfare of Michigan municipalities.

#### **H. Michigan's Campaign to End Homelessness:**

In 2006, The State of Michigan and MSHDA demonstrated a commitment to ending homelessness in Michigan with the simultaneous unveiling of 60 Ten Year Plans to End Homelessness covering 100% of Michigan's 83 counties.

MSHDA is one of hundreds of partners that have committed to advancing the statewide Campaign to End Homelessness by providing housing, services and income supports to homeless persons. The Campaign includes interested constituent groups; shelters, housing providers, service providers, state and local agencies, foundations, businesses and private citizens. It uses the best data, provides the best technical assistance and training, and continually searches across the country for the best evidence-based practices to bring to Michigan. It regularly measures progress and continuously makes needed changes towards the elimination of homelessness.

The Campaign acknowledges that enduring and extraordinary commitments at the local, regional and state levels are required to achieve the vision of ending homelessness in Michigan. The 2008-09 QAP is designed to advance the Michigan Campaign to End Homelessness. Its focus is largely on the City of Detroit where homelessness is a severe concern and where the state's largest population of homeless persons (22 percent) can be found.

#### **I. Poverty in Michigan:**

Direct efforts to serve Michigan's homeless, impoverished and unemployed populations are considerably strengthened when coupled with public policies that support vibrant communities and metropolitan growth, promote local economic investment, and create quality employment opportunities.

Recent evidence indicates that regional economic strength is inextricably tied to the strength of central cities. Likewise, neighborhood poverty levels are largely driven by the strength of metropolitan area economies. Growing regional economies generally experience reductions in poverty rates in their lowest income communities.

Targeted investments in high poverty areas are also successful at reducing poverty and unemployment. In addition to mountains of anecdotal evidence, a number of recent academic papers prove that providing economic incentives for investment in central cities improves economic opportunity, adds value and reduces poverty. Community Development Corporations have proven to be particularly successful in achieving significant positive economic outcomes.

Global changes have left nearly one quarter of the U.S. labor force working in jobs that pay poverty level wages (about \$20,000 annually in Michigan). Meanwhile, it requires wages of about \$40,000 per year for a two-parent family with two children to afford basic necessities in Detroit. Federal prevailing wage standards and local labor requirements are incorporated into the 2008-09 QAP to assist in providing quality employment and reducing poverty rates in Michigan's towns and cities. In the same way that high poverty neighborhoods cannot generate municipal revenues to meet the demand for services, neighborhoods that do not have a solid base of family incomes cannot sustain themselves. Therefore, it is appropriate that a federal subsidy such as LIHTC is coupled with such standards.

***It is within the context of these legal obligations, policy objectives, affordable housing goals, and land use tenets that the QAP is developed and administered by MSHDA.***

***Most importantly, the LIHTC program assists the development of affordable housing, but also reduces blight, provides recreational and communal facilities to low income residential areas, promotes local business enterprises, and revitalizes and diversifies the State's overall economy.***

***Underlying all these requirements and expectations, the State of Michigan is dedicated to ensuring that low-income persons and families have access to safe and sanitary housing, through both new construction and preservation of the existing affordable***

***housing stock.***

**II. NCSHA Best Practices**

To the extent feasible and consistent with federal law, the National Council of State Housing Agencies Best Practices are incorporated into the 2008-2009 QAP.

**III. Tax-Exempt Financed Development Not Subject to Housing Credit Ceiling**

In accordance with Section 42 of the IRS Code projects which do not receive an allocation from the State's LIHTC ceiling because they qualify under Section 42 of the IRS Code by virtue of being financed with tax-exempt obligations issued after December 31, 1989 (MSHDA's direct lending and modified pass-through programs), are required to satisfy certain basic requirements for allocation of LIHTC dollar amounts under the QAP and are subject to the evaluations required by the QAP and fees set forth in the QAP. These projects are not, however, subject to the QAP funding rounds.

**IV. Approval and Modification of the Qualified Allocation Plan**

**A. QAP Approval:**

Pursuant to federal and state law, the QAP shall be prepared by MSHDA, submitted to the legislature and approved by the Governor after notice to the public and public hearing. Notice of the public hearing will be published on MSHDA's website and in newspapers of general circulation throughout the state at least fourteen (14) days prior to the public hearing. Comments received shall be taken into consideration and a written summary of such comments shall be provided to the Governor together with the request for approval of the Plan. LIHTCs shall be allocated in accordance with the QAP and any amendment(s) to the QAP.

**B. QAP Modification:**

To the extent necessary to facilitate the award of LIHTCs that would not otherwise be awarded, the QAP may be modified by MSHDA from time to time pursuant to State law. Modifications to the QAP shall be prepared by MSHDA, submitted to the Legislature, and approved by the Governor after notice to the public and public hearing.

MSHDA is required to hold one informational hearing prior to publication of proposed changes to the QAP. After proposed changes have been published, MSHDA is required to conduct at least three public hearings. Hearings are required to be held at such time and place as determined by MSHDA; however, MSHDA shall give priority to locations that provide the greatest opportunity for public comment. Additional hearings may be held at MSHDA's discretion. The QAP is valid until it is changed by MSHDA.

**V. Signatory Authority/Disclaimer**

Reservations, Commitments, and Allocations (including Carryover Allocations) may



only be made by MSHDA's Executive Director or MSHDA's Director of Legal Affairs.

The allocation of LIHTCs is made at the sole discretion of MSHDA. MSHDA and its directors, employees, and agents shall not be liable for any matters arising out of or in relation to the allocation or administration of LIHTC.

MSHDA's Director of Legal Affairs or the Executive Director may waive any requirements and/or conditions that are not mandated by Section 42 of the IRS Code on a case-by-case basis deemed necessary to facilitate the administration of the LIHTC Program, to address unforeseen circumstances, and that they determine are in the best interest of the State of Michigan. The Executive Director has the exclusive authority to approve requests for the exchange of credit. In unusual circumstances, and for good cause shown, MSHDA's Executive Director or MSHDA's Director of Legal Affairs may waive project-specific deadlines.

In the event a waiver is granted under any of these or other circumstances, a fee of 5% of the annual credit amount may be charged pursuant to a Fee Schedule published by MSHDA.

To the extent that anything contained in this QAP does not meet the minimum requirements of federal law or regulation, or state law or regulation, such law or regulation shall take precedence over the QAP.

## **VI. Funding Rounds and Availability of Credit**

### **A. Funding Round Schedule:**

MSHDA may hold two or more funding rounds per year, including individual holdback funding rounds. Funding rounds will be publicized on MSHDA's website ([www.michigan.gov/mshda](http://www.michigan.gov/mshda)), and MSHDA may adjust the funding round schedule (including the number of rounds held) if required by law or other compelling circumstances.

The following table outlines the anticipated schedule for funding rounds for the years 2008 and 2009, including the approximate percentage of annual LIHTC authority available for each round. The year noted in the last column refers to the year of the annual credit authority to be awarded.

<b>Funding Round</b>	<b>Application Due Date</b>	<b>Expected Award Date</b>	<b>LIHTC Available</b>
Fall 2007	December 27, 2007	March 2008	50% (2008)
Spring 2008	April 1, 2008	July 2008	50% (2008)
Fall 2008	October 1, 2008	January 2009	50% (2009)
Spring 2009	April 1, 2009	July 2009	50% (2009)

Approximately 50% of the 2008 annual credit will be awarded in a Fall 2007 round with the remainder awarded in a Spring 2008 round. In 2009 LIHTC will be awarded in two funding rounds of approximately 50% each in October 2008

and April 2009. MSHDA will commit LIHTC each year thereafter based on a Fall and Spring schedule.

Applications must be received in MSHDA's Lansing office no later than 5:00 pm on the application due date of the funding round. Applications may only be sent via delivery service (e.g., post, overnight, and courier). Personal deliveries other than through a delivery service will not be accepted. Applications received after the due date and time will not be processed. No waiver of the delivery service type or delivery time will be granted. All applications, information and documents submitted by an applicant for review by MSHDA become the sole property of MSHDA and may be made public.

Each funding round will consider applications for developments under the various QAP Holdbacks. Applications submitted in a funding round must elect one and only one of the Holdback categories. MSHDA will consider applications in each Holdback separately. Applications selecting more than one Holdback category will not be processed by MSHDA. No waiver will be granted.

#### **B. LIHTC Allocation Limits:**

MSHDA will accept a maximum of two applications per funding round from a sponsor. A single sponsor may not receive allocations totaling more than 10% of the annual credit available. The following single project annual credit caps shall apply:

1. Cities of Detroit, Hamtramck and Highland Park: 30% for sub-categories a, b and d; and for subcategory c, \$750,000 per single project (see Section VII(B)(1) below).
2. If other numerical caps are listed in the QAP, a single project may not exceed that cap.
3. For all other projects 30% of any Holdback category.

MSHDA reserves the right to waive these limits should it determine, in its sole discretion, that a project merits an exception.

#### **C. Additional LIHTC:**

For projects receiving an award or allocation of LIHTC, applications for additional credit may be submitted in conjunction with any competitive funding round; provided, however, that after the placed-in-service date, no additional credits may be applied for during the 15-year compliance period.

To the extent that there is available credit after October 1 in any calendar year, Reservations and Carryover Allocations may be awarded at MSHDA's sole discretion to projects that have been determined in a previous funding round to be eligible for credit but for which no credit was previously available.

Once credits have been awarded or allocated by MSHDA, applications for additional credit will not be allowed to change the tenant income level configuration originally elected unless the change is to reach more low-income

tenants, lower-income tenants, or both.

## VII. Statutory Set-Asides and QAP Holdbacks

### A. Statutory Set-Aside:

Michigan has created statutory "set-asides" based on housing needs within the State. The purpose of these set-asides is to assure that the LIHTC will be used to create and to preserve affordable housing opportunities for both urban and non-urban citizens of the State. The following percentages of the State's total credit ceiling for a calendar year have been reserved:

Set-Aside	Percentage
Qualified nonprofit organization <sup>1</sup>	Not less than 10%
Rural Housing Projects <sup>2</sup>	Not less than 10%
Housing projects in eligible distressed areas <sup>3</sup>	Not less than 30%
Housing projects for the elderly <sup>4</sup>	Not less than 10%

1 Pursuant to Section 42 of the Internal Revenue Code.

2 Defined as proposed or existing housing projects that fall into one or more of the following categories: a) financed by a loan guaranteed by Rural Housing Services or a successor agency; RHS 515 projects will be awarded credit before projects with RHS 538 loan guarantees; b) funded by a federal program for the development of rural housing; or c) is located in a township or city that does not include any part of an Urban Core or Urban Area as defined by the U.S. Census and includes Rural Towns located outside Wayne, Oakland and Macomb Counties.

3 Pursuant to MCL 125.1411(u) – a list of eligible distressed areas can be found on MSHDA's website.

4 Defined as federally assisted projects that conform to the federal agency(s) definition of elderly or the MSHDA definition of elderly under the MSHDA Act.

Within the exception of the nonprofit set-aside, if the amount of LIHTC dollars set aside has not been allocated before October 1 of the year in which that credit amount is authorized, MSHDA may reapportion unallocated LIHTC amounts thereafter. Projects will only count toward one set-aside in meeting the target percentages.

Applications, when received, will be placed into the appropriate set-aside, if applicable, for scoring in accordance with the Selection Criteria and Holdbacks set forth in the QAP.

### B. QAP Holdbacks:

Applications submitted in a funding round must elect one and only one Holdback category. MSHDA will consider applications in each Holdback category separately. Applications selecting more than one Holdback category will not be accepted by MSHDA and will not be processed.

The following Holdbacks (of which preservation projects are all eligible) are established as part of the QAP:

#### 1. Cities of Detroit, Hamtramck and Highland Park (DHHP):

A Holdback of 50% of the LIHTC is set aside for projects in the cities of

Detroit, Hamtramck and Highland Park (DHHP) to be allocated as follows:

- a. Approximately 40% of the DHHP Holdback shall be allocated to four of the targeted areas in the Next Detroit Neighborhood Initiative: Osborn, North End, Brightmoor and Grand River/Greenfield as identified on a Map included with the Combined Application. These projects must have a letter of support from the Chief Elected Officer to be considered.
- b. Approximately 20% of the DHHP Holdback shall be allocated to Supportive Housing projects for persons who are homeless. The selection process shall be the same as that used for the Supportive Housing/Special Needs Holdback.
- c. Approximately 20% of the DHHP Holdback shall be allocated to nonprofit Community Development Corporations or qualified housing commissions for projects to be developed in conjunction with a Community Revitalization Plan or are projects meeting the New Economy/Downtown definition found in the Definition Addendum to the Combined Application.
- d. The remainder of the DHHP Holdback shall be allocated based on the general and specific project criteria found in the QAP and the Addenda to the Combined Application. Eligible projects include, but are not limited to, preservation of affordable (federally assisted, expiring LIHTC) housing, elderly housing, family housing, projects that meet the Cool Cities criteria, Affordable Assisted Living projects, and all other project types cited in this DHHP Holdback Section.

DHHP projects are not permitted to participate in any other Holdback category.

## **2. Michigan's Poverty Distressed Cities (PDCs):**

A Holdback of 15% of the LIHTC for those seventeen (17) Michigan Cities ranked highest in levels of poverty and unemployment as identified in Table I of the Combined Application is set aside as follows:

- a. Approximately 30% of the PDC Holdback is allocated to Cool Cities projects.
- b. Approximately 40% of the PDC Holdback is allocated to nonprofit Community Development Corporations for projects, which are developed in conjunction with a Community Revitalization Plan or are projects meeting the New Economy/Downtown definition found in the Definition Addendum to the Combined Application.
- c. The remainder of the PDC Holdback shall be allocated based on the general and specific project criteria found in the QAP and the Addenda to the Combined Application. Eligible projects include, but are not limited to, preservation of affordable (federally assisted, expiring LIHTC) housing, elderly housing, family housing, and all other project types

cited in this PDC Holdback Section.

### **3. Michigan's Small Communities and Rural Housing:**

A Holdback of 10% of the LIHTC for communities with a population of less than 20,000 (using 2000 Census data) as found in Table II of the Combined Application is set aside as follows:

- a. One Affordable Assisted Living project shall be awarded every two years beginning in LIHTC Year 2008, with an allocation not to exceed \$600,000. Preference shall be given to projects requesting less than \$250,000.
- b. Approximately 40% of this Holdback shall be allocated to nonprofit Community Development Corporations for projects developed in conjunction with a Community Revitalization Plan or projects meeting the New Economy/Downtown definition found in the Definition Addendum to the Combined Application in communities with a minimum population level of 2,500 based on the 2000 U.S. Census.
- c. The balance shall be allocated based on the general and specific project criteria found in the QAP and Addenda to the Combined application. Eligible projects shall include, but are not limited to, preservation of affordable (federally assisted, expiring LIHTC) housing, elderly housing, family housing, projects meeting the Cool Cities criteria, and those project types cited in this Small Communities and Rural Housing Section.

Preservation of Rural Development projects is allowable in all communities. All other applicants competing for LIHTC in this Small Communities and Rural Housing Section must be from communities with a minimum population of 2,500.

The first round of Small Community and Rural Housing projects for LIHTC Year 2008 shall be restricted to applicants in Regions 1 and 2. The second round of LIHTC Year 2008 shall be restricted to applicants for Regions 3 and 4. This same process of rotating regions will continue for Fall and Spring 2009 and future years. Maps of the four regions are included as an Addendum to the Combined Application. Except for Affordable Assisted Living projects, no more than \$475,000 in LIHTC will be available for any given proposal.

### **4. Supportive Housing/Housing for Persons with Special Needs:**

A Holdback of 20% of the LIHTC is set-aside for Supportive Housing/Housing for Persons with Special Needs to be allocated as follows:

- a. Approximately 50% of this Holdback is set aside for allocation to housing projects for persons that meet HUD's definition of "Chronically Homeless".

- b. One (1) housing project for Native Americans shall be awarded every two years beginning in LIHTC Year 2008, with an allocation not to exceed \$500,000 per project.
- c. The balance of this Holdback is allocated to supportive housing for all other population groups that meet the QAP definitions of Special Needs and Homeless, including but not limited to, Domestic Violence Survivors, and Consumers of Mental Health Services. Single Room Occupancy Housing (SRO) is also an eligible use under this category.

#### **5. Affordable Assisted Living:**

MSHDA will allocate LIHTC to a minimum of one (1) Affordable Assisted Living project per year, exclusive of projects funded from the DHHP or Rural Housing set aside. This allocation shall not exceed \$750,000.

MSHDA staff shall have the administrative discretion to allocate tax credits across and within the five categories to achieve the target levels of the Holdbacks, while also fulfilling mandates imposed by Section 42 of the IRS Code and state law.

Acquisition/rehabilitation projects of single-family residential scattered site properties will not be considered.

### **VIII. Eligibility Requirements**

When an application is received, it will be reviewed for eligibility to be scored and evaluated. In order to be eligible for scoring and evaluation, certain threshold requirements must be met for all projects. The application must be made on a completed form prescribed by MSHDA, including the mandatory exhibits prescribed below and in the application.

Due to the large quantity of applications generally submitted, MSHDA will first rank proposals in accordance with the Threshold Requirements, i.e. the proposals either meet or do not meet Threshold with processing of application terminated if Threshold is not met. After threshold determination, proposals will then be evaluated based on the Selection Criteria for each Holdback category. Lower scoring proposals will only be processed further if tax credit ceiling cap remains available after the higher scoring proposals are processed.

If two or more proposals have an equal number of points, the following tiebreaker system will be used to determine selection between or among proposals:

1. First priority will be given to a project with the deepest income targeting, if a tie still remains;
2. Second priority will be given to a project with the greatest number of Selection Criteria Preference points, if a tie still remains;
3. Third priority will be given to the project with the lowest construction hard costs per housing unit as reflected on the project's Sources and Uses Statement;
4. Fourth priority will be given to a project with the lowest syndication and consultant costs, if a tie still remains;
5. Final priority will be determined by lottery.

DETERMINATION OF ELIGIBILITY DOES NOT ENTITLE AN APPLICANT TO AN ALLOCATION OF LIHTCS. BELOW ARE THRESHOLD REQUIREMENTS FOR SUBMITTING A LIHTC APPLICATION TO MSHDA (SOME HOLDBACK CATEGORIES HAVE ADDITIONAL THRESHOLD REQUIREMENTS. THESE REQUIREMENTS CAN BE FOUND IN THE ADDENDA TO THE COMBINED APPLICATION).

**A. Threshold Requirements – Required documents must be tabbed in the order found in Addendum I to the Combined Application**

1. Ten (10%) percent of all units in any given project (that is not already submitted as a Special Needs/Supportive Housing projects) shall be given leasing priority for Supportive Housing Tenants who meet MSHDA's Supportive Housing Tenant definition with rents structured at or below 30% of AMI. Notwithstanding this requirement, for acquisition/rehabilitation projects, including preservation projects, the applicant will not be required to displace any current tenants but shall be required to comply with this requirement as units turn over and become available for occupancy.

Owners and management agents shall be required to partner with service organizations skilled in servicing either or both special needs or homeless populations once MSHDA awards LIHTC reservations. MSHDA's Supportive Housing Division will assist an applicant in identifying quality service organizations and will also facilitate the execution of a Memorandum of Understanding (MOU) among the applicant, the management agent and the service organization detailing the services to be provided.

As part of the MOU, the owner and management agent must agree to notify the service organization when a 30% AMI unit is about to or becomes available. If the service organization is not able to identify and assist in filling the unit with a Supportive Housing Tenant within the 60-day period after receiving the notification, the owner and management agent will be relieved of its obligation to fill the unit with a Supportive Housing Tenant and the owner and management agent may fill the unit with an otherwise qualified tenant.

Projects will be regularly monitored by MSHDA's Supportive Housing Division to determine the percentage of units occupied by Supportive Housing Tenants. In the event that occupancy of these units falls below 85%, MSHDA's Supportive Housing Division will intervene and work with the owner and management agent to increase the occupancy level to the extent feasible.

2. The applicant and its General Contractor are required to commit to the following workforce requirements:
  - a. Disadvantaged Business Enterprise Goals;
  - b. Local Resident Workforce Goals;
  - c. Prevailing Wage Requirements;

- d. Health Care Coverage Requirements; and
- e. Low-Income Worker Earned Income Tax Credit Notification Requirement.

The applicant and its General Contractor shall be required to certify to MSHDA its compliance with these goals and requirements and shall also be subject to inspection and audit of their books and records to assure that the applicant and the General Contractor are meeting these goals and requirements. Failure on the part of the Owner and/or the General Contractor to make a good faith effort to achieve these goals and meet these requirements will cause the development to become ineligible for issuance of Form 8609 to the IRS.

- 3. Submission of an Affirmative Fair Housing Marketing Plan consistent with MSHDA requirements.
- 4. Evidence of site control evidenced by an option to purchase, letter of intent or term sheet, land contract, offer to purchase, purchase agreement, long-term lease or other appropriate documentation as determined acceptable by the Director of Legal Affairs in the name of the applicant and ability to keep same for 120 days from the application due date. The owner listed in the application must be listed as the purchaser in the site control documents and the title insurance commitment. Site control documents must clearly identify the physical location of the property (i.e. property address, full legal description or plat map identifying street names) and be consistent with the rest of the development information provided in the application including the title insurance commitment.
- 5. Evidence from the municipality of the property's current zoning designation and what, if any, steps are in process to obtain proper zoning for the proposed development.
- 6. Submission of an environmental review in accordance with the current MSHDA Environmental Review Standards together with a remediation plan, if necessary, with estimated costs outlined in detail and accounted for in the Sources and Uses Statement. Projects will be rejected if the environmental review and/or supporting documentation do not meet MSHDA's Environmental Review Standards or if MSHDA determines additional testing or modifications to a remediation plan are necessary.
- 7. Evidence from the municipality and/or utility companies regarding the availability of all utilities – electricity, gas, water and sewer.
- 8. Evidence of submission of application(s) to a mortgage lender(s) stating the amount of the loan, terms, and interest rate. In the case of a RHS project, a letter signed by an official of RHS; in the case of conventional financing, documentation from the lender(s) stating that a formal application for construction and permanent financing has been submitted and is under serious consideration; and in the case of an Authority financed project, evidence that the project has passed initial determination. Letters from mortgage lenders that do not contain an original hand written signature of



the lender(s) authorized officer/employee or do not contain the specific details on the proposed loan being considered as described herein will be rejected.

9. A market study completed in accordance with MSHDA's guidelines that indicates the housing needs of low-income individuals in the area to be served.
10. Pro forma financial projections for the 15-year compliance period submitted on the form and in the format prescribed by MSHDA.
11. Statement of Sources and Uses of funds submitted on a form and in a format prescribed by MSHDA.
12. Financial Statements of the Sponsor and Contractor that meet MSHDA Policy Bulletin #20.
13. Title Insurance Commitment dated within six months of the application due date. For projects located on federally recognized American Indian reservations, an attorney's opinion letter regarding chain of title and land control may be accepted in lieu of title insurance commitment. Again, applicants must assure that the name of the entity that owns the property matches with the site control documents, that the entity (applicant) to be insured is correct, and that all parcels of property under land control exactly match up and are properly identified. The title insurance commitment must contain an original signature of the authorized title insurance company agent or employee.
14. If applying for the non-profit set aside:
  - a. Documentation of federal tax-exempt status; and
  - b. An executed agreement between the sponsor and the non-profit, if applying for points.
15. A detailed and complete narrative description of the project which includes the type of project; location; prior LIHTC status, if any; type of financing; tenants served, bedroom mix; local, federal or state subsidies, if any; and any other relevant descriptive information. Applicants are encouraged to provide as much additional detail and background information about the proposed project as possible. Do not assume MSHDA will know the nuances and intricacies of the proposed project. Detailed and specific information regarding the project helps MSHDA to better assess the potential financial viability and success of the project as part of the scoring process.
16. For acquisition/rehabilitation, including preservation projects of existing low-income units financed by HUD, RHS, or MSHDA, written evidence from the appropriate agency that the transfer application has been submitted.
17. Certification from the architect and owner that all units will be equipped with high-speed Internet capability (either by connecting each unit to a separate

data network using Category 5e wiring, by installing a wireless Local Area Network (LAN) server and providing each unit with at least one wireless LAN card, or by installation of cable service to the project and to each unit) and that the project will have an active internet connection between the project and a local internet service provider. In the event that there is no local Internet service provider in the area, the owner and architect must provide a written certification that so states that a local Internet service provider is not available to service the project at this time and the applicant must agree to provide such service once it becomes available. An applicant is not responsible for monthly subscription fees associated with individual service to a tenant in an individual unit. Failure to meet this threshold requirement will result in issuance of Form 8823 to the IRS.

18. Evidence of submission of application(s) for LIHTC from at least three (3) equity investors stating the amount of credit including the price per dollar of credit and the general terms and conditions of investment in the event the equity investor will commit to the project. Applicant shall include a statement signed by an authorized representative of the equity investors that the proposal is under serious consideration for possible investment. Statements/letters from equity investors that do not contain a hand written original signature of the equity investors authorized representative and the specific details on the proposed credit investment being considered as described herein will be rejected.
19. Evidence of incorporation of green community/new urbanism elements in the project as set forth the Green Community/New Urbanism Criteria Checklist found in the Addenda portion of the Combined Application. Items marked "mandatory" apply to all applicants unless otherwise stated in the Checklist.
20. By submitting an application for LIHTCs, all applicants waive the right under Section 42 of the Internal Revenue Code to request that MSHDA find a buyer for the project in year 14 of the compliance period. MSHDA required extended use commitment shall not terminate at the end of the compliance period. MSHDA extended use commitment is 90 years, except for single family rental projects that are developed with the intent to dispose/sell the single family residences to the tenants.
21. A written statement signed by the applicant stating it will give priority to persons whose names are on appropriate Public Housing or Housing Choice Voucher waiting lists maintained by a Public Housing Commission (PHC) or Public Housing Authority (PHA) in the area in which the project is located and further states it will make ongoing efforts to request that the PHC and/or the PHA make referrals to the project, or place the relevant project information on any listing the PHC or PHA makes available to persons on their waiting lists.
22. A statement of certification that if the applicant is awarded LIHTC it shall post signage at the project construction site listing MSHDA as a financing source.

23. For all acquisition/rehabilitation projects, including preservation projects, not providing proof of tax abatement, a copy of the most recent tax bill.
24. For all acquisition/rehabilitation projects, including preservation projects, a Capital Needs Assessment.

#### **B. Threshold Requirements – Preservation Projects:**

In addition to meeting the other requirements of the QAP, applications for preservation projects must meet the following threshold requirements.

1. Eligible projects include:
  - a. Section 236
  - b. Section 8
  - c. Section 202
  - d. Rural Development
  - e. MSHDA-financed
  - f. HUD-financed
  - g. Low Income Housing LIHTC
  - h. Any development that has received a below market federal loan as defined in Section 42 of the IRS Code
2. Projects must either:
  - a. Be within two years of any permitted prepayment or equivalent loss of low income use restrictions, and must remain low income for the Extended Use Agreement period or the length of the mortgage; or
  - b. Preserve already existing low income units provided the rehabilitation will repair or replace components that are:
    - ii. In immediate need of repair or replacement; or
    - iii. Substantially functionally obsolete or will provide modifications or betterments consistent with new code requirements and MSHDA's Design Requirements.
3. Low income targeting is required as follows:
  - a. 10% of the LIHTC units in a development must have income and rents set at 40% of median income (inclusive of existing units). A deep subsidy contract for a minimum of 5 years will satisfy this requirement.
  - b. 10% of the LIHTC units in a development must have income and rents set at 30% of median income (inclusive of existing units). A deep subsidy contract for a minimum of 5 years will satisfy this requirement.
4. Projects with federal assistance must retain the assistance.

#### **C. Additional Threshold Requirements – Holdbacks:**

In addition to meeting the general and threshold requirements of the QAP, applicants competing for credit under the various Holdbacks must conform to the

specific requirements of each of these categories as found in the Combined Application and applicable Addenda and Policy Bulletins.

#### **D. Disqualification**

Applicants shall submit a list of all tax credit developments they have participated in as a principal in the three (3) years preceding the application along with a statement concerning any criminal convictions, indictments, and pending criminal investigations of all development team members, including but not limited to any owner, principal(s) of the owner, sponsor, developer, property management company, general contractor, consultant(s), or a related party, and details of each circumstance, unless otherwise prohibited by court order, statute or regulation.

Proposals submitted wherein any member of the development team including but not limited to any owner, principal(s) of the owner, sponsor, developer, property management company, general contractor, consultant(s), or a related party or entity to any of these development team members has been determined to be in default or in major non-compliance with LIHTC or any other MSHDA program, debarred or suspended from any MSHDA, HUD, or Rural Housing programs, is in foreclosure or been foreclosed, or is under investigation, indicted or been convicted of a crime, will automatically be disqualified until the event or events of default, debarment, suspension, foreclosure, non-compliance, or other legal action are corrected or resolved.

MSHDA has the sole and absolute discretion to determine those parties ineligible for LIHTC due to non-compliance or disqualification status.

### **IX. Evaluation Criteria**

MSHDA will evaluate applications for LIHTC in accordance with the requirements of federal and state law and the QAP based on a competitive scoring process. Under no circumstances will any application subject to a competitive scoring process give rise to an entitlement or legal right to an allocation of LIHTCs. The allocation of LIHTCs shall be entirely at the discretion of MSHDA.

MSHDA may request additional material for clarification purposes, if an otherwise eligible project faces possible rejection because of an oversight. Determinations of correctable, administrative errors are at the sole discretion of MSHDA. Requested materials must be submitted within 5 business days of the date of notification by MSHDA or they will not be allowed to compete in the funding round. Under no circumstances will materials be requested or allowed to be submitted that will change a project's score.

MSHDA will award negative points to those applications with technical errors, incomplete information or documentation, and significant or material inconsistencies found in the application package that impedes processing of the application. One point per technical error, incomplete information or documentation, significant or material inconsistency will be deducted from an applicant's score if MSHDA must notify the applicant of a documentation, information or clarification that must be submitted while reviewing the application. Project applications with more than 6 technical errors, incomplete information or documentation or significant or material

inconsistency will not be processed and will not be allowed to compete in the funding round.

MSHDA will award additional points to projects serving the lowest income tenants for the longest periods of time, that are located in qualified census tracts as defined by Section 42 of the IRS Code and which contribute to a concerted Community Revitalization Plan or meet the definition of a New Economy/Downtown project as defined in the Definition Addendum of the Combined Application.

Any changes to a project that require a re-scoring or re-evaluation which causes the projects position to fall below its original position will cause the reservation of LIHTC to be rescinded.

The development team will be evaluated for professional capacity to plan, build, market, and operate the proposed development. The performance record of the sponsor, consultant, architect, management agent and contractor will be measured by the quality and quantity of previous development, design, construction and property management efforts, as well as affirmative action records. Each team member is expected to demonstrate satisfactory prior experience on projects of similar scale and complexity; to have satisfactory professional references; and to devote sufficient staffing and resources to complete the proposed development. If a development team member does not have satisfactory prior experience, a written plan must be submitted to outline how this technical capacity will be achieved. The sponsor and contractor will also be evaluated for creditworthiness and financial capacity. The composition of a non-profit sponsor's Board of Directors and the tenure of its respective members will be given significant consideration.

Development team members will also be evaluated on the basis of demonstrated success in (i) the development, design and construction of housing with supportive services; and (ii) the planning and delivery of services including adequacy of staffing and/or oversight of third party contracts for services.

#### **X. Underwriting Standards**

MSHDA will perform an evaluation of the project costs to determine reasonableness as compared to other projects in similar areas. Generally, costs in excess of 110% of the Department of Housing and Urban Development's 221(d) (3) Mortgage Limit for the area will not be permitted to be included in eligible basis (although such costs are not prohibited). However, in unusual and well-documented cases, costs in excess of these limits may be included in eligible basis, at the sole discretion of MSHDA.

In making its determination of the LIHTC dollar amount necessary for the financial feasibility of a project and its viability as a qualified low income housing project throughout the credit period, MSHDA will consider the sources and uses of funds and the total financing planned for the project, and any proceeds or receipts expected to be generated by reason of tax benefits. HOWEVER, SUCH A DETERMINATION BY MSHDA SHALL NOT BE CONSTRUED TO BE A REPRESENTATION OR WARRANTY AS TO THE FEASIBILITY OR VIABILITY OF THE PROJECT.

In conducting its evaluations, MSHDA will apply the following reasonableness standards in regard to fees:

1. Consultant Fees (excluding "consultants" normally used in the development process, such as market analysts, environmental consultants, when not included in the construction contract, etc.) - Must be included in and paid from the developer fee.

2. Developer fee for projects subject to state housing credit ceiling:

For acquisition/rehabilitation or preservation projects of 49 units or fewer, the combined total of the developer fee, developer overhead, and any consultant fees will be limited to \$1,000,000. This shall be calculated as 15% of the total development cost, less: developer fee, developer overhead, developer consultant fee, and project reserve. For projects of 50 units or more, the combined total of the developer fee, developer overhead, and any consultant fee shall be limited to 10% of the total acquisition cost of land and building(s), and 15% of the total rehabilitation costs, not to exceed \$1,000,000. This shall be calculated as 10% of total acquisition cost of land and building(s), developer fee, developer overhead, developer consultant fee, and project reserves.

For new construction projects, the combined total of the developer fee, developer overhead, and any consultant fees shall be limited to \$1,000,000. This shall be calculated as 15% of total development costs, less: developer fee, developer overhead, developer consultant fees, and project reserves.

If an existing project is split into two or more projects, the aggregate developer fee for all projects cannot exceed \$1,000,000.

3. Developer fee for projects not subject to state housing credit ceiling:

For acquisition/rehabilitation or preservation projects of 49 units or fewer, the combined total of the developer fee, developer overhead, and any consultant fees will be limited to \$2,000,000. This shall be calculated as 20% of the total development cost, less: developer fee, developer overhead, developer consultant fee, and certain project reserves. For projects of 50 units or more, the combined total of the developer fee, developer overhead, and any consultant fee shall be limited to 10% of the total acquisition cost of land and building(s), and 15% of the total rehabilitation costs, not to exceed \$2,000,000. This shall be calculated as 10% of total acquisition cost of land and building(s), developer fee, developer overhead, developer consultant fee, and certain project reserves.

For new construction projects, the combined total of the developer fee, developer overhead, and any consultant fees shall be limited to \$2,000,000. This shall be calculated as 15% of total development costs, less: developer fee, developer overhead, developer consultant fees, and certain project reserves.

If an existing project is split into two or more projects, the aggregate developer fee for all projects cannot exceed \$2,000,000.

Please refer to the current MSHDA Multifamily Direct Lending Loan Parameters for more information.

4. For projects involving acquisition and rehabilitation, an amount equal to at least 5% of the acquisition cost of the land and building(s) must be allocated to acquisition for purposes of attribution to the developer fee.
5. A maximum of 70% of the developer fee can be used for project costs. The project pro forma must indicate that there is sufficient cash flow to repay any deferred developer fee prior to year 16.
6. Construction Contract Items:
  - a. General Requirements - 6% of construction contract, exclusive of builder profit, builder overhead and general requirements.
  - b. Builder Overhead - 2% of construction contract, exclusive of builder profit and builder overhead.
  - c. Builder Profit - 6% of construction contract, exclusive of builder profit.
7. Projects of 49 units or fewer may aggregate general requirements, builder overhead, and builder profit to a maximum of 20% of the construction contract.
8. Construction manager/consultant fee when not included in the construction contract must be included in and paid from the developer's fee- maximum of \$50,000.

Excess fees will be deducted from total development costs when performing the gap calculation.
9. In general, for projects involving acquisition/rehabilitation (including preservation projects), the hard construction costs for the rehabilitation of the buildings must not be less than \$10,000 per unit.
10. Rent increases will be limited to no more than 5% per year for the first three years.
11. Identity of Interest - If an identity of interest exists between the sponsor and the General Contractor, incentive fees may only be paid to the extent that they are included in the above mentioned fee limitations. A general contractor may act as a subcontractor and may be entitled to additional overhead and profit otherwise payable to an independent subcontractor. However, the general contractor's overhead, profit, and general requirements that may be included as allowable project costs are limited to the percentages noted above.

In determining the feasibility of a project over the compliance period, MSHDA has established standards for operating expenses, vacancy rates, increases in operating costs and expenses, project income, debt service coverage ratio, operating reserves, and replacement reserves. Requests for use of alternative standards other than those established by MSHDA must be supported by written explanation and appropriate documentation. The use of the MSHDA standards or any alternative standards for determining financial feasibility of a project is at the sole discretion of MSHDA. If MSHDA determines that the project is not financially feasible using MSHDA's standards or the alternative standards, the project will not be eligible for allocation of LIHTC.

At any evaluation stage, MSHDA will consider the project's economic feasibility and financial viability over the 15-year compliance period and will consider project cost and expenses. If the project is determined not to be feasible over the 15-year compliance period, the project will be rejected.

## **XI. First Evaluation and Award of Reservations**

Project applications that include all required information and documentation in a form and manner acceptable to MSHDA, and that meet or exceed the threshold requirements will be eligible to be evaluated for receipt of a Reservation of LIHTC.

An equity gap calculation will also be performed to ensure that only the amount of credit necessary to make the project feasible will be awarded. The equity gap is determined by subtracting the syndication costs, all permanent financing amounts, and any other applicable amounts from the total development cost (after deductions are made for excess fees). This total is then compared to the value of the credit that the project is eligible to receive based on its qualified basis. In determining the credit amount to be used in making the equity gap calculation, MSHDA will use the credit dollar average of the three equity bids provided by the applicant multiplied by the published IRS credit rate as of the due date of the application.

Site visits may be conducted for each application submitted. MSHDA reserves the right to ask for clarification and deny an application because of site location. MSHDA has the right to require a buffer for sites that are deemed unacceptable. Site acceptability is the sole and absolute determination of MSHDA.

Once MSHDA has conducted the evaluation and determined the amount of LIHTC to be reserved, it will issue a Reservation to the applicant.

Reservations shall be valid for 120 days from the date of issuance by MSHDA, at which time all documentation required for a Commitment will be submitted to MSHDA.

MSHDA, at the time it issues the Reservation, shall notify the chief executive officer of the municipality in which the project is to be located of the proposal, and shall give reasonable opportunity for comments by the chief executive officer.

Reservations, Commitments, and/or Carryover Allocations are non-transferable either to another entity or within the same entity where there is a change in control or general partner interests, except with the express written consent of MSHDA, it being the explicit intention of the QAP to prevent one party from obtaining such a Reservation, Commitment, and/or Carryover Allocation in order to sell or "broker" its interest in the proposal (except for syndication purposes). Because all representations made with respect to the owner, sponsor, developer or related party or entity, or any member of the development team, their experience and previous participation are material to the evaluation made by MSHDA, it is not expected that MSHDA's consent will be granted for such transfers unless a new application is submitted and scores no less than the original application.

## **XII. Second Evaluation and Commitment**



Prior to the expiration of the Reservation, the sponsor must submit to MSHDA acceptable evidence of the following:

- 1) Firm commitment(s) of all federal, state, and local subsidies that will apply to the project.
- 2) Firm commitment(s) for construction and permanent financing (for RHS projects, a letter signed by an official of RHS which commits funds to the project; for conventional construction and permanent financing, letters of commitment from the lender which are accepted by the sponsor, or signed mortgage documents; for Authority financing, a copy of the Mortgage Loan Feasibility Resolution).
- 3) Necessary local approvals, dated within one year of the application due date, including zoning (for acquisition/rehabilitation projects a letter from the municipality must be submitted, stating that the zoning is compatible with the proposed use of the buildings), the project specific tax abatement ordinance or an area-wide tax abatement ordinance with a qualifying resolution which meets Authority requirements, and final site plan approval. (For rehabilitation projects, a letter from the municipality indicating that the relevant board or commission of the municipality has reviewed the proposal, including the level of rehabilitation work to be completed, the site, and that no further plan approvals are necessary.)
- 4) Letter of intent from the selected equity provider indicating that review of the project has begun, and stating the amount of equity to be paid, the timing of such payments, the amount of credit expected by the investor, and which is accepted by the sponsor.
- 5) Certification from the equity provider that it has received a letter of intent that has been accepted by the sponsor.
- 6) Updated Project schedule.
- 7) Updated Pro-forma financial information.
- 8) Updated Sources and Uses Statement.
- 9) Formation of ownership entity (Documentation received by the Department of Labor and Economic Growth's Bureau of Commercial Services, where applicable). Out-of-state entities must submit a copy of an endorsed application for certificate of authority to transact business or conduct affairs in Michigan, along with the supporting documentation submitted with the application.
- 10) An appraisal for all acquisition/rehabilitation projects, and an appraisal of the land for all new construction projects where there is an identity of interest between the seller and purchaser. All appraisals must be less than one year old. Acquisition cost of the land and buildings shall be the lesser of the actual purchase price or the amount reported in the appraisal as the Estimated Prospective Market Value as "legally and financially encumbered after rehabilitation". Total development costs will be limited to the lesser of the amount reported in the owner's cost certification or the amount reported in the appraisal as the Estimated Prospective Market Value as "legally and financially encumbered after rehabilitation with tax credits and interest credit subsidy".
- 11) Executed Memorandum of Understanding for Support Services.

Upon receipt of this information, MSHDA will review submitted documentation and, if deemed acceptable, will issue a Commitment document.

If changes to the LIHTC Program as enacted by Congress in any given calendar year so dictate, Reservations and/or Commitments of such Authority may be subject to

different expiration dates depending on the nature of any changes in the federal program.

### **XIII. Carryover Allocations**

A Carryover Allocation will be issued to projects at the time of reservation. Projects that receive an allocation of credit prior to July 1 must provide evidence, acceptable to MSHDA and in accordance with any applicable federal regulations, from a Certified Public Accountant no later than December 1 that more than 10% of the project's reasonably anticipated basis has been incurred in the year in which the Carryover Allocation is issued. Projects receiving a Carryover Allocation on or after July 1 will be given six months from the date of the allocation to incur more than 10% of the project's reasonably anticipated basis and to provide documentation of such to MSHDA. A second financial evaluation of the project based on updated information will be conducted at the time this certification is submitted.

In the event that a Commitment has not been issued prior to issuance of a Carryover Allocation, all requirements for the Commitment must be fulfilled within 120 days of the issuance of the Reservation or the Carryover Allocation shall become null and void. In the event that "Readiness to Proceed" points have been awarded to the project prior to issuance of a Carryover Allocation, all requirements must be met within 120 days of the issuance of the Reservation or the Carryover Allocation shall become null and void.

### **XIV. Final Evaluations**

MSHDA will further evaluate the project at the time of making a Carryover Allocation and again at the date each building is placed in service, including a site visit if deemed necessary by MSHDA, to ensure that all requirements outlined in the application and QAP have been met. In the event that an initial visit warrants subsequent visits, MSHDA will charge a fee of \$500 per subsequent visit.

In accordance with Section 42 of the IRS Code, no credit shall be allowed with respect to any building for the taxable year unless an extended LIHTC commitment is in effect as of the end of such taxable year. MSHDA uses a LIHTC Regulatory Agreement to meet this requirement. Requests for a LIHTC Regulatory Agreement must be submitted to MSHDA no later than November 1<sup>st</sup> of the year in which the project is placed in service, or the following November 1<sup>st</sup> of the following year if the owner elects to begin the LIHTC period the first year after the building is placed in service.

The placed in service application must be submitted to MSHDA on or before May 1<sup>st</sup> of the year after the project is placed in service.

When the project/building is placed in service and prior to the issuance of a Form 8609, the owner must submit to MSHDA acceptable evidence of the following:

- 1) Updated application.
- 2) Independent, third party final owner's and contractor's cost certifications for all projects.
- 3) Certificates of occupancy, or equivalent for rehabilitation work.
- 4) Executed limited partnership agreement and all attachments.

- 5) Copy of executed and recorded permanent mortgage and other permanent financing sources.
- 6) Copy of executed and recorded deed to property showing partnership as owner (or long-term lease showing partnership as lessee if on tribal land), including correct property description.
- 7) Copy of ownership entity formation records approved by the Department of Labor and Economic Growth's Bureau of Commercial Services
- 8) Color photograph of project.
- 9) Form 8821, Tax Information Authorization (Rev. 4-04) naming MSHDA as the appointee to receive tax information.
- 10) A copy of the owner's final title insurance policy evidencing that the Extended Use Agreement has been recorded as first priority over all other encumbrances evidencing or securing the financing of the project.

#### **XV. Evaluation of Developments Subject to Subsidy Layering**

MSHDA, as Michigan's sole housing credit agency for administration of the LIHTC, and HUD, have entered into a Memorandum Of Understanding which outlines MSHDA's Section 911 subsidy layering review of projects receiving LIHTC and "assistance" from HUD'S Office of Housing. Until such time as guidelines are published and MSHDA accepts such delegation, MSHDA will not be performing subsidy-layering reviews for projects receiving assistance under HUD'S Offices of Public and Indian Housing and Office of Special Needs Assistance Programs.

In connection with the subsidy layering evaluations performed by MSHDA as the housing credit agency, the following standards will be applied:

1. Profit and Fees – Projects with layered subsidies will be subject to the provisions outlined in Section 10, Underwriting Standards, regarding the developer fee and the builder's profit, overhead, and general requirements.
2. Syndication Expenses - The total expenses, excluding bridge loan costs, incurred by the sponsor in obtaining cash from the sale of project interest to investors through public offerings will generally be evaluated as not exceeding 15% of gross syndication proceeds but may, in the event that MSHDA determines special market or risk factors to be involved, be evaluated up to 24% of gross syndication proceeds. Similarly, MSHDA will generally evaluate private offering expenses at 10% of gross syndication proceeds, excluding bridge loan costs, but may use a figure of up to 15%.
3. MSHDA will, in its evaluation, apply an applicable market rate, expressed in cents netted per dollar of credit as of the project's placed in service date, in calculating maximum LIHTC, and valuing all payments, whether by installment or in one lump sum. This applicable market rate will be based upon factors including the project's market value, comparable, contemporary syndications, and MSHDA's judgment regarding market trends. Where a higher than usual ownership percentage is retained, the following will apply: if an owner retains between a 5-50% interest, an additional \$.10 will be added to the applicable market rate, and if ownership of over 50% is retained, an additional \$.20 will be added to the market rate used for the evaluation.

With regard to these standards, MSHDA may choose to evaluate using less than the standards set forth herein.

#### **XVI. Project Reconfiguration and Exchange of Credit**

Project evaluations are performed on the information that is provided in the initial application for reservation. This information is material to the determination of project score, the amount of credit reserved, and the feasibility of the project during the compliance period. Any changes to a project that require a re-scoring or re-evaluation which causes the projects position to fall below its original position will cause the reservation of LIHTC to be rescinded.

In certain unusual circumstances, delays may occur which will prevent the project from being placed in service at the end of the second calendar year from the date of the Carryover Allocation. MSHDA may allow the credit to be returned and may issue a Carryover Allocation in the year in which the credit is returned without the necessity of competing for funding provided certain conditions, including an assessment of facts by MSHDA, are met.

At no time will any project be allowed more than three calendar years from the date of initial application to project completion unless approved by MSHDA.

#### **XVII. Fees**

All applications must be accompanied by a check or money order in an amount equal to \$40 for each proposed low-income unit, with a \$2000 maximum limit. No one sponsor will be allowed to submit more than two applications in either funding round. This fee is non-refundable and must be paid in each funding round in which a project is seeking to be scored and/or evaluated. A fee of \$100 will be assessed each time a check is returned to MSHDA for non-sufficient funds.

MSHDA will charge a fee equal to 6% of the annual LIHTC dollar amount reserved for a project. A sum equal to 3% of the annual LIHTC dollar amount shall be submitted to MSHDA at the time of Reservation. Should a project that has received a Reservation return that Reservation to MSHDA within 90 days of its receipt, 50% of the fee shall be refundable; however, after 90 days, 0% shall be refundable. The remaining 3% shall be paid at Commitment. Projects in which the sole general partner is a nonprofit entity or a wholly owned for-profit subsidiary of a nonprofit entity may defer all but the initial application fee, until such time as closing on the equity contribution occurs.

In addition to the fees listed above, MSHDA may establish such other fees as may be necessary to effectively administer the program. Such fees may include, but are not limited to, charges to process waiver requests, changes in ownership, subsidy layering reviews and site visits. MSHDA shall publish a schedule of such fees 60 days prior to implementation.

Compliance monitoring fees will be charged for the credit period as follows:

All units for which an allocation of credit was not made by December 31, 2007 must pay the sum of \$450 per low income unit, which amount will cover the entire 15 year compliance monitoring period and the extended use period and is payable prior to

issuance of Form 8609.

All units for which an allocation of credit was not made by December 31, 2000 must pay the sum of \$300 per low income unit, which amount will cover the entire monitoring period and is payable prior to issuance of Form 8609. All units that received an allocation of credit prior to January 1, 1993, and all projects financed by MSHDA that received an allocation of credit before January 1, 1997, may elect to submit a sum equal to \$15 per low income unit on an annual basis for the remainder of the compliance period, or may opt to make one payment similar to that described above. With the exception of projects financed by Rural Development, all projects that received an allocation of credit prior to January 1, 2001 must pay an additional inspection fee of \$30 for each unit to be inspected once every three years. Projects financed by Rural Development must pay an additional fee of \$20 per each unit to be inspected once every three years. This fee shall be paid at the time of submission of the annual owner certifications. Failure to submit any compliance or inspection fee will be considered non-compliance.

Compliance monitoring fees are subject to change based on changes in costs associated with administration of the compliance monitoring function by MSHDA and other changes in MSHDA and/or IRS mandated monitoring requirements.

## **XVIII. Compliance Monitoring and Notification of Noncompliance**

Owners (applicants) receiving a LIHTC allocation shall be required to follow the requirements outlined in MSHDA's Rental Housing Programs Compliance Manual (Manual), which includes LIHTC compliance requirements (available on MSHDA's website). Failure to meet these requirements shall result in the assessment of negative points on pending or future LIHTC applications.

### **A. Owner Responsibilities**

Within thirty (30) days of your completion of Part II of the Form 8609 and filing same with the Internal Revenue Service, a completed copy must be to MSHDA for its records. Failure to return the completed form to MSHDA within the required timeframe is a form of noncompliance that will be reported by MSHDA to the IRS.

The records for the first year of the credit period must be kept for six years after the due date (with extensions) for filing the federal income tax return for the last year of the compliance period. Owners must keep subsequent records on file for six years after the due date (with extensions) for filing the federal income tax return for that year. These records must include:

- ◆ The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each unit);
- ◆ The percentage of residential rental units in the buildings that are low-income units;
- ◆ The rent charged on each residential rental unit in the building;
- ◆ The number of occupants in each low-income unit if rent is determined by the number of occupants in each unit;
- ◆ The low-income unit vacancies in the building and information that shows when and to whom the next available units were rented;

- ◆ Income certifications of each low-income tenant and the documentation to support the certification;
- ◆ The eligible basis and qualified basis of the building at the end of the first year of the credit period; and
- ◆ The character and use of the nonresidential portion of any building included in the project's eligible basis.

Owners must keep, for inspection by MSHDA, the original local health, safety or building code violation reports or notices that are issued by the state or local government unit. These reports may be destroyed following an inspection by MSHDA and notification to the owner that the violations have been corrected. Code violation reports must be retained for uncorrected violations.

Owners must submit to MSHDA on an annual basis the following:

- ◆ An Owner Certification Form certifying that for the preceding twelve month period the project met certain conditions outlined in Section 42;
- ◆ Information on the low-income units, the number of bedrooms in each unit, the rent charged for each unit, the utility allowance for the units and buildings in the project and any other information as set forth on the form.

Owners must submit to MSHDA on an on-going basis tenant income and rent data stating the number of qualifying units, information on each low-income tenant, the rent charged for each unit, and any other information as set forth on the MSHDA website and in the Manual. The tenant income and rent information must be provided in the format required by MSHDA, which includes electronic submission via a web-based reporting system.

Owners must submit to MSHDA a copy of the certificate of occupancy (or certificate of substantial completion for acquisition/rehabilitation projects) for each building in the development within five (5) business days after each certificate becomes available.

Owners must notify MSHDA, in writing, within five (5) business days of any changes in the management of the project, including changes in the company managing the project or in the address or telephone number of the management agent.

Owners must notify MSHDA, in writing, within five (5) business days of any changes in the ownership of the project, including a foreclosure, deed in lieu of foreclosure, or any other sale or disposition of the project or any portion of the project and any changes in the ownership entity, including any changes in the name of the entity, address and telephone number of the entity, percent of ownership changes, and changes in the principals comprising the ownership entity.

Owner must notify MSHDA immediately, in writing, of any unit(s) or building(s) in the project that are anticipated to be unavailable for occupancy either permanently or temporarily for a period of time anticipated to exceed 30 calendar days due to casualty loss, damage, or any other reason.

## **B. MSHDA Responsibilities**

MSHDA will review the Owner Certification Forms and tenant Income and rent reporting for compliance with program requirements.

MSHDA, or its authorized agent, will physically inspect 20% of the low-income units in a project and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for 20% of the low-income units no later than the end of the second calendar year following the year the last building in the project is placed in service.

MSHDA, or its authorized agent, will conduct a physical inspection of all buildings and 20% of the low-income units in a project, and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for 20% of the low-income units at least once every 3 years. Inspections may be more frequent for projects receiving assistance through other state or federal programs in addition to the LIHTC.

MSHDA retains the right to perform an on-site inspection of any low-income building at any time during the compliance period for low-income housing LIHTC and any extended use period as well.

MSHDA shall retain records of noncompliance or failure to certify for six years after the filing of a Form 8823. MSHDA shall retain all certifications and records for not less than three years from the end of the calendar year in which they are received.

Any monitoring of continuing compliance is being done by MSHDA to assure that public purpose goals are being achieved and any failure to receive notice of noncompliance **SHOULD NOT BE RELIED UPON BY ANY OWNERS OR THEIR INVESTORS AS A WARRANTY OR REPRESENTATION BY MSHDA THAT THE PROJECT IS IN COMPLIANCE WITH APPLICATION REQUIREMENTS.**

## **C. Notification of Noncompliance**

If any of the submissions required in Section A, including the Owner Certification, the Tenant Income and Rent Report, income certifications, supporting documentation, and rent records are not submitted in a timely fashion, or should there be omissions, MSHDA shall request such information from the owner within 45 working days. If not provided within 20 working days, MSHDA shall notify the Internal Revenue Service of the owner's failure to provide the required information.

Should MSHDA discover, as a result of an inspection or review, or in any other manner, that the project is not in compliance with Section 42, or that credit has been claimed or will be claimed for units that are ineligible, MSHDA shall notify the owner within 45 working days. The owner shall have 20 working days in which to commence appropriate action to cure such noncompliance. The owner shall have a maximum of 90 days from the date of notice to the owner to cure the noncompliance. MSHDA shall notify the Internal Revenue Service, utilizing Form 8823, no later than 45 days after the end of the correction period, and no earlier

than the end of the correction period, of the nature of the noncompliance and will indicate to the Service whether or not the owner has made appropriate corrections. In extraordinary circumstances, and only if MSHDA determines that there is good cause, an extension of up to six months to complete a cure for noncompliance may be granted.

While MSHDA will notify the owner of compliance issues, neither a finding of noncompliance nor a determination that noncompliance has been cured is binding on the Internal Revenue Service. Owners who have received a notification from MSHDA that a project is in compliance may still be subject to an IRS audit and the possibility of loss or recapture of Housing Credits. Please refer to the Internal Revenue Code for all federal compliance issues.

#### **XIX. Policy Bulletins and Scoring Summary**

The Policy Bulletins, incorporated here by reference, set forth additional requirements for LIHTC applicants. The Selection Criteria and Preference Points set forth in the Scoring Summary of the Combined Application, including all applicable Addenda are also incorporated into the QAP by reference. MSHDA reserves the right to modify the Scoring Summary, Combined Application and Policy Bulletins at its discretion following notice to the public.